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10/690,528	10/23/2003	Miwako Doi	244157US2SRDDIV	9094
22850 7590 04/17/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER TORIMIRO, ADETOKUNBO OLUSEGUN	
			ART UNIT	PAPER NUMBER
			3714	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
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ED

Office Action Summary	Application No. 10/690,528	Applicant(s) DOI ET AL.	
	Examiner Adetokunbo O. Torimiro	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/23/2003 and 02/03/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The Restriction Election received on 01/24/2007 has been entered.

Claim Objections

2. Claim 25 is objected to because of the following informalities:

Claim 25, line 18: "an external station" should be -- the external station --.

Appropriate correction is required.

Specification

3. The disclosure is objected to because of the following informalities:

It is unclear what the applicant is disclosing on page 1, lines 14-17. The Examiner finds the disclosure "... promote outgoing ..." unclear, as it is not clear what is outgoing.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 28 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Re claim 28: the limitation, "said ... game coupon information" in lines 3 and 4 lacks clear antecedent basis. There is insufficient antecedent basis for this limitation in the claim.

Re claim 34: the limitation, "said ... game coupon information" in lines 4 and 5 lacks clear antecedent basis. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 25,27,36,38-40, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi et al (US 4,725,977) in view of Sagesaka et al (US 5,619,361).

Re claims 25 and 27: Izumi et al teaches a service system comprising a portable terminal device configured to execute a game program solely or in collaboration with another device, said portable terminal device (see col.1, lines 24-29) including, a portable terminal communication section configured to communicate with an external station (see col.3, lines 3-4), a portable terminal storage section configure to store user personal game history information, game

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attribute and character information, and device service information (see col.2, line 61 – col.3, line 2), and a portable terminal information management section configured to transmit the personal game history information, and receive the game attribute and character information and the device service information; a processor mainframe including, a main processor information exchange section configured to exchange game information with the portable terminal device (see col.6, lines 21-30), and an external station distribution control section configured to control the distribution of the device service information to said portable terminal device according to the received game history information (see col.4, lines 8-12).

However, Izumi et al fails to teach the device comprising the main processor information management section configured to provide said game attribute and character information to the portable terminal in accordance with a predetermined parameter; an external station including, an external station communication section configured to communicate with the portable terminal device when the portable terminal device is within a predetermined proximity to the external station, receive the personal game history information transmitted from said portable terminal device and transmit the device service information to the portable terminal device; and a central service server configured to provide the device service information to the external station on the basis of the personal game history received by the external station from the portable terminal device.

Sagesaka et al teaches the device comprising the main processor information management section configured to provide said game attribute and character information to the portable terminal in accordance with a predetermined parameter (see col.2, lines 25-28); an external station including, an external station communication section configured to communicate

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with the portable terminal device when the portable terminal device is within a predetermined proximity to the external station, receive the personal game history information transmitted from said portable terminal device and transmit the device service information to the portable terminal device (**see col.2, lines 34-40**); and a central service server configured to provide the device service information to the external station on the basis of the personal game history received by the external station from the portable terminal device (**see col.2, lines 25-28**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination of the teachings of Izumi et al and Sagesaka so as to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game. **It is apparent to examiner that the teaching in claim 27 of broadcasting is included in the teaching of claim 25. It is obvious that there will be no communication between the portable terminal device and the external station if there is no broadcasting from the external station, which is also a broadcasting station, to the portable terminal device.**

Re claim 36: Izumi et al teaches a service system comprising a portable terminal device configured to execute a game program.

However, Izumi et al fails to teach the system further comprising a service sever configured to distribute said device service information to said external station, the service server configured to adaptively distribute said device service information based on at least one of connection information on a portable terminal device assessed from said external station to the

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external station, and said game history information transmitted from the portable terminal device to the external station.

Sagesaka et al teaches the system further comprising a service sever configured to distribute said device service information to said external station, the service server configured to adaptively distribute said device service information based on at least one of connection information on a portable terminal device assessed from said external station to the external station, and said game history information transmitted from the portable terminal device to the external station (see col.2, lines 25-28 and col.6, lines 59-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to make this combination by including a service server to the system, so as to provide a means for processing and distributing game and device service information. **It is apparent to examiner that a server could be any computer acting as a controlling data processor or distributor.**

Re claim 38: Izumi et al teaches a portable terminal device comprising a game history information memory configured to store personal game history information of a user, the personal game history information being transmitted from a first external device (see col.2, line 61 – col.3, line 2).

However, Izumi et al fails to teach the portable terminal device comprising a transmitter configured to transmit the personal game history information stored in said game history information memory to a processor mainframe in communication with a central service server; a receiver configured to receive device service information transmitted from the processor

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mainframe in response to the personal game history information transmitted to the processor mainframe and in correspondence with central device service information provided to the processor mainframe by the central service server; and a processing section configured to process a game program solely or in collaboration with said first external device based on said device service information received from said processor mainframe.

Sagesaka et al teaches the portable terminal device comprising a transmitter configured to transmit the personal game history information stored in said game history information memory to a processor mainframe in communication with a central service server; a receiver configured to receive device service information transmitted from the processor mainframe in response to the personal game history information transmitted to the processor mainframe and in correspondence with central device service information provided to the processor mainframe by the central service server; and a processing section configured to process a game program solely or in collaboration with said first external device based on said device service information received from said processor mainframe (see col.2, lines 25-40).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination of the teachings of Izumi et al and Sagesaka so has to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game, and also by including a service server to the system, so as to provide a means for processing and distributing game and device service information. **It is apparent to examiner that a server could be any computer acting as a controlling data processor or distributor.**

Re claim 39: Izumi et al teaches a service method in a service system comprising a portable terminal device.

However, Izumi et al fails to teach a service information distributing apparatus, comprising a receiver configured to receive personal game history information transmitted from a portable terminal device, said portable terminal device configured to acquire device service information from a distribution center, said receiver further configured to execute predetermined game processing with or without collaboration with an external device; a transmitter configured to transmit said device service information from said distribution center to said portable terminal device according to the game history information received by said receiver.

Sagesaka et al teaches a service information distributing apparatus, comprising a receiver configured to receive personal game history information transmitted from a portable terminal device, said portable terminal device configured to acquire device service information from a distribution center, said receiver further configured to execute predetermined game processing with or without collaboration with an external device; a transmitter configured to transmit said device service information from said distribution center to said portable terminal device according to the game history information received by said receiver (see col.2, lines 25-40).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination of the teachings of Izumi et al and Sagesaka so as to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game.

Re claims 40 and 42: Izumi et al teaches a service method in a service system comprising a portable terminal device configured to acquire device service information and execute a game program solely or in collaboration with another device (see col.1, lines 24-29), a processor mainframe including an exchange section configured to exchange game attribute and character information with the portable device, and an information management section configured to write selected game attribute information, corresponding to a type of device service information, into a storage section in the portable terminal device as a part of game history information (see col.6, lines 21-30), said service method comprising the steps of storing the personal game history information of a user in said portable terminal device; exchanging the game attribute and character information between said portable terminal device and said processor mainframe (see col.2, line 61 – col.3, line 2).

However, Izumi et al fails to teach a service method in a service system comprising an external station configured to communicate with the portable terminal device when the portable terminal device is within a predetermined distance, and a central service server configured to provide to the external station the game attribute and character information to said portable terminal device, transmitting said stored personal game history information to said external station from said portable terminal device; receiving the transmitted personal game history information at said external station; and transmitting said device service information to said portable terminal device according to said personal game history information received by said external station and in accordance with game and attribute information provided by said central service server.

Sagesaka et al teaches a service method in a service system comprising an external station configured to communicate with the portable terminal device when the portable terminal device is within a predetermined distance, and a central service server configured to provide to the external station the game attribute and character information to said portable terminal device, transmitting said stored personal game history information to said external station from said portable terminal device (see col.2, lines 25-28); receiving the transmitted personal game history information at said external station; and transmitting said device service information to said portable terminal device according to said personal game history information received by said external station and in accordance with game and attribute information provided by said central service server (see col.2, lines 25-40).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination of the teachings of Izumi et al and Sagesaka so as to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game. **It is apparent to examiner that the teaching in claim 27 of broadcasting is included in the teaching of claim 25. It is obvious that there will be no communication between the portable terminal device and the external station if there is no broadcasting from the external station, which is also a broadcasting station, to the portable terminal device.**

8. Claims 26 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi et al (US 4,725,977) in view of Sagesaka et al (US 5,619,361) and further in view of Mankoff (US 6,385,591). The teachings of Izumi et al and Sagesaka et al have been discussed above.

Re claim 26: Izumi et al teaches a service system comprising a portable terminal device configured to execute a game program solely or in collaboration with another device, said portable terminal device (see col.1, lines 24-29) including, a portable terminal communication section configured to communicate with an external station (see col.3, lines 3-4), a portable terminal storage section configured to store user personal game history information, game attribute and character information, and device service information (see col.2, line 61 – col.3, line 2), and a portable terminal information management section configured to transmit the personal game history information, and receive the game attribute and character information and the device service information; a processor mainframe including, a main processor information exchange section configured to exchange game information with the portable terminal device (see col.6, lines 21-30), and an external station distribution control section configured to control the distribution of the device service information to said portable terminal device according to the received game history information (see col.4, lines 8-12).

Sagesaka et al teaches the device comprising the main processor information management section configured to provide said game attribute and character information to the portable terminal in accordance with a predetermined parameter (see col.2, lines 25-28); an external station including, an external station communication section configured to communicate with the portable terminal device when the portable terminal device is within a predetermined proximity to the external station, receive the personal game history information transmitted from said portable terminal device and transmit the device service information to the portable terminal device (see col.2, lines 34-40); and a central service server configured to provide the device service information to the external station on the basis of the personal game history received by

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the external station from the portable terminal device (see col.2, lines 25-28 and col.6, lines 59-62).

However, Izumi et al and Sagesaka et al fails to teach a portable terminal device configured to acquire game coupon information.

Mankoff teaches a portable terminal device configured to acquire game coupon information (see fig.2; col.1, lines 50-58).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination of the teachings of Izumi et al and Sagesaka so has to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game; and also obvious to include the portable terminal device configured to acquire game coupon information so has to give the game more variety by adding various choices that can be obtained from the coupons thereby increasing the enjoyment of the game.

Re claim 41: Izumi et al teaches a service method in a service system comprising a portable terminal device configured to acquire device service information and execute a game program solely or in collaboration with another device (see col.1, lines 24-29), a processor mainframe including an exchange section configured to exchange game attribute and character information with the portable device, and an information management section configured to write selected game attribute information, corresponding to a type of device service information, into a storage section in the portable terminal device as a part of game history information (see col.6, lines 21-30), said service method comprising the steps of storing the personal game history

information of a user in said portable terminal device; exchanging the game attribute and character information between said portable terminal device and said processor mainframe (see col.2, line 61 – col.3, line 2).

Sagesaka et al teaches a service method in a service system comprising an external station configured to communicate with the portable terminal device when the portable terminal device is within a predetermined distance, and a central service server configured to provide to the external station the game attribute and character information to said portable terminal device, transmitting said stored personal game history information to said external station from said portable terminal device (see col.2, lines 25-28); receiving the transmitted personal game history information at said external station; and transmitting said device service information to said portable terminal device according to said personal game history information received by said external station and in accordance with game and attribute information provided by said central service server (see col.2, lines 25-40).

However, Izumi et al and Sagesaka et al fails to teach a service system comprising a portable terminal device configured to acquire game coupon information.

Mankoff teaches a portable terminal device configured to acquire game coupon information (see fig.2; col.1, lines 50-58).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination of the teachings of Izumi et al and Sagesaka so has to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game; and also obvious to include the portable terminal device configured to acquire game coupon information so has to give the game more

variety by adding various choices that can be obtained from the coupons thereby increasing the enjoyment of the game.

9. Claims 28-35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi et al (US 4,725,977) in view of Sagesaka et al (US 5,619,361) and Mankoff (US 6,385,591) and further in view of Hollenberg (US 6,091,956). The teachings of Izumi et al, Sagesaka et al, and Mankoff have been discussed above.

Re claims 28-30,34,35, and 37: Izumi et al and Sagesaka et al teaches service system and service method employing portable terminal.

However, they fail to teach the system wherein said portable terminal device or external device includes a section configured, when a predetermined condition is met, to instruct a user to acquire said device service information, said game attribute and character information, or game coupon information; wherein said external station includes a section configured to transmit to said portable terminal device, guidance information for indicating another external station at which said portable terminal acquires said device service information, said game attribute and character information, or said game coupon information.

Hollenberg teaches the system wherein said portable terminal device or external device includes a section configured, when a predetermined condition is met, to instruct a user to acquire said device service information, said game attribute and character information, or game coupon information / data; wherein said external station includes a section configured to transmit to said portable terminal device, guidance information for indicating another external station at

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which said portable terminal acquires said device service information, said game attribute and character information, or said game coupon information / *data* (see **fig.13; col.23, lines 12-63**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to make this combination so has to have a system with a two way communication thereby making the game more realistic and hence increasing the player enjoyment of the game.

Re claims 31-33: Izumi et al and Mankoff teaches a service system comprising a portable terminal device.

Hollenburg teaches a portable terminal device wherein said portable terminal device or external device includes acquiring said device service information and data.

However Izumi et al, Mankoff, and Hollenburg fail to teach the service system wherein said portable terminal device or external device includes a section configured to indicate to a user said external station at which said portable terminal device acquires said device service information, game attribute and character information, or said game coupon information.

Sagesaka et al teaches the service system wherein said portable terminal device or external device includes a section configured to indicate to a user said external station / *base station* at which said portable terminal device acquires said device service information, game attribute and character information, or said game coupon information (see **col.7, lines 40-46**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a section configured to indicate to user said external station at which said portable terminal device acquires said device information and data since without the

indication and identifying of the external station, it would not be possible to communicate of receive broadcast from the external station to the portable terminal device. Therefore it is obvious to include the indication so that the communication between the portable device and the external station can be easily possible. **It is apparent to examiner that there will be no communication between the portable terminal device and the external station if there is no identifying of the external station by first having an indication of the external station.**

Response to Amendment

10. It has been noted that Group I, claims 25,28,34,36,38,39, and 40 have been provisionally elected with traverse.

Response to Arguments

11. Applicant's arguments received 01/24/2007 have been fully considered but are moot in view of the grounds of rejection.

The Examiner agrees with the applicant that since electronic searching is commonly performed, a search may be made theoretically of a large number of subclasses. However, despite computer searching, each subclass is still gotten lots of cases associated with them, which still makes it a burden on the examiner. Consequently, the requirement to elect a single group has been withdrawn and full examination of all claims 25-42 has been conducted.

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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13. Claims 25,28-335, and 40 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,736,727. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 25 and 28-35 of the present application are disclosed by claims 1-5 of U.S. Patent No. 6,736,727 in broader scope by disclosing "another device" instead of "a game machine mainframe" and "main processor" instead of "mainframe" as disclosed in the US patent and by eliminating the limitation "depending on a user that possesses the portable terminal device" (see **col. 15, lines 48-49**); because claim 40 of the present application is disclosed by claim 6 of U.S. Patent No. 6,736,727 in broader scope by disclosing "another device" instead of "a game machine mainframe" and "main processor" instead of "mainframe" as disclosed in the US patent and by eliminating the limitation "depending on a user that possesses the portable terminal device" (see **col. 15, lines 48-49**).

14. Claim 26 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,736,727 in view of Mankoff (US 6,385,591). Mankoff teaches a portable terminal device configured to acquire game coupon information (see **fig.2; col.1, lines 50-58**); claim 41 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6,736,727 in view of Mankoff (US 6,385,591). Mankoff teaches a portable terminal device configured to acquire game coupon information (see **fig.2; col.1, lines 50-58**). One would be motivated to combine the teachings of Mankoff with the disclosure of U.S. Patent No. 6,736,727

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so has to give the game more variety by adding various choices that can be obtained from the coupons thereby increasing the enjoyment of the game.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spitzer discloses an apparatus and method for transmitting information from signage to portable computing device, and system utilizing same; Anttilla et al discloses an electronic coupon system.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

AT

 4/12/07
KIM NGUYEN
PRIMARY EXAMINER